

the life tenant which is not a farm tenancy shall continue until one of the following first occurs:

1. The date previously agreed upon for termination of the tenancy without notice.
2. If the tenant is a tenant at will, upon the expiration of the period provided by section five hundred sixty-two point four (562.4) of the Code.
3. If the tenancy is for less than one year, sixty days after the end of the month in which the life estate terminated.
4. If the tenancy is for a year or more, one year after the end of the month in which the life estate terminated. However, if the lease is binding upon the holder of the successor interest by the provision of a trust or by specific commitment of the holder of the successor interest, the lease shall terminate as provided by that provision or commitment.

Sec. 3. Chapter five hundred sixty-two (562), Code 1977, is amended by adding the following new section:

NEW SECTION. RENTAL VALUE. The holder of the interest succeeding a life estate who is required by sections one (1) or two (2) of this Act to continue a tenancy shall be entitled to a rental amount equal to the prevailing fair market rental amount in the area. If the parties cannot agree on a rental amount, either party may petition the district court for a declaratory judgment setting the rental amount. The costs of the action shall be divided equally between the parties.

Sec. 4. This Act is effective January 1, 1979.

Approved May 8, 1978

CHAPTER 1172

UNIFORM RESIDENTIAL LANDLORD AND TENANT LAW

H. F. 2244

AN ACT to adopt the uniform landlord tenant Act as modified and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

ARTICLE I

GENERAL PROVISIONS AND DEFINITIONS

Part I

SHORT TITLE, CONSTRUCTION, APPLICATION

AND SUBJECT MATTER OF THE ACT

Section 1. NEW SECTION. SHORT TITLE. This Act shall be known and may be cited as the Uniform Residential Landlord and Tenant Act.

Sec. 2. NEW SECTION. PURPOSES--RULES OF CONSTRUCTION.

1. This Act shall be liberally construed and applied to promote its underlying purposes and policies.

2. Underlying purposes and policies of this Act are:

a. To simplify, clarify, modernize and revise the law governing the rental of dwelling units and the rights and obligations of landlord and tenant; and

b. To encourage landlord and tenant to maintain and improve the quality of housing.

c. To insure that the right to the receipt of rent is inseparable from the duty to maintain the premises.

Sec. 3. NEW SECTION. SUPPLEMENTARY PRINCIPLES OF LAW APPLICABLE. Unless displaced by the provisions of this Act, the principles of law and equity in this state, including the law relating to capacity to contract, mutuality of obligations, principal and agent, real property, public health, safety and fire prevention, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating cause, shall supplement its provisions.

Sec. 4. NEW SECTION. ADMINISTRATION OF REMEDIES-- ENFORCEMENT.

1. The remedies provided by this Act shall be administered so that the aggrieved party may recover appropriate damages. The aggrieved party has a duty to mitigate damages.

2. A right or obligation declared by this Act is enforceable by action unless the provision declaring it specifies a different and limited effect.

Part II

SCOPE AND JURISDICTION

Sec. 5. NEW SECTION. EXCLUSIONS FROM APPLICATION OF ACT. Unless created to avoid the application of this Act, the following arrangements are not governed by this Act:

1. Residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar service.

2. Occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to his or her interest.

3. Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization.

4. Transient occupancy in a hotel, motel or other similar lodgings.

5. Occupancy by an employee of a landlord whose right

to occupancy is conditional upon employment in and about the premises.

6. Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative.

7. Occupancy under a rental agreement covering premises used by the occupant primarily for agricultural purposes.

Part III

GENERAL DEFINITIONS AND

PRINCIPLES OF INTERPRETATION; NOTICE.

Sec. 6. NEW SECTION. GENERAL DEFINITIONS. Subject to additional definitions contained in subsequent articles of this Act which apply to specific articles or its parts, and unless the context otherwise requires, in this Act:

1. "Building and housing codes" include a law, ordinance, or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use, or appearance of a premise or dwelling unit.

2. "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place.

3. "Good faith" means honesty in fact in the conduct of the transaction concerned.

4. "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the building of which it is a part, and it also means a manager of the premises who fails to disclose as required by section thirteen (13) of this Act.

5. "Business" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, and any other legal or commercial entity.

6. "Owner" means one or more persons, jointly or severally, in whom is vested:

a. All or part of the legal title to property; or

b. All or part of the beneficial ownership and a right to present use and enjoyment of the premises, and the term includes a mortgagee in possession.

7. "Premises" means a dwelling unit and the structure of which it is a part and facilities and appurtenances of it and grounds, areas and facilities held out for the use of tenants generally or whose use is promised to the tenant.

8. "Rent" means a payment to be made to the landlord under the rental agreement.

9. "Rental agreement" means an agreement written or oral, and a valid rule, adopted under section eighteen (18) of this Act, embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

10. "Rental deposit" means a deposit of money to secure performance of a residential rental agreement, other than a deposit which is exclusively in advance payment of rent.

11. "Roomer" means a person occupying a dwelling unit that lacks a major bathroom or kitchen facility, in a structure where one or more major facilities are used in common by occupants of the dwelling unit and other dwelling units. Major facility in the case of a bathroom means toilet, or either a bath or shower, and in the case of a kitchen means refrigerator, stove or sink.

12. "Single family residence" means a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it is a single family residence if it has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with another dwelling unit.

13. "Tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of another.

14. "Reasonable attorney's fees" means fees determined by the time reasonably expended by the attorney and not by the amount of the recovery on behalf of the tenant or landlord.

Sec. 7. NEW SECTION. UNCONSCIONABILITY.

1. If the court, as a matter of law, finds that:

a. A rental agreement or any provision of it was unconscionable when made, the court may refuse to enforce the agreement, enforce the remainder of the agreement without the unconscionable provision, or limit the application of an unconscionable provision to avoid an unconscionable result.

b. A settlement in which a party waives or agrees to forego a claim or right under this Act or under a rental agreement was unconscionable at the time it was made, the court may refuse to enforce the settlement, enforce the remainder of the settlement without the unconscionable provision, or limit the application of an unconscionable provision to avoid any unconscionable result.

2. If unconscionability is put into issue by a party or by the court upon its own motion the parties shall be afforded a reasonable opportunity to present evidence as to the setting, purpose, and effect of the rental agreement or settlement

to aid the court in making the determination.

Sec. 8. NEW SECTION. NOTICE.

1. A person has notice of a fact if such person has actual knowledge of it, has received a notice or notification of it or, if from all the facts and circumstances known to that person at the time in question, such person has reason to know that it exists. A person "knows" or "has knowledge" of a fact if such person has actual knowledge of it.

2. A person "notifies" or "gives" a notice or notification to another by taking steps reasonably calculated to inform the other in ordinary course whether or not the other actually comes to know of it. A person "receives" a notice or notification when it comes to that person's attention or in the case of the landlord, it is delivered at the place of business of the landlord through which the rental agreement was made or at a place held out by the landlord as the place for receipt of the communication or, when in the case of the tenant, it is delivered in hand to the tenant or mailed by registered or certified mail to such person at the place held out by such person as the place for receipt of the communication, or in the absence of such designation, to such person's last known place of residence.

3. "Notice," knowledge or a notice or notification received by an organization is effective for a particular transaction from the time it is brought to the attention of the individual conducting that transaction, and in any event from the time it would have been brought to the attention of such person if the organization had exercised reasonable diligence.

Part IV

GENERAL PROVISIONS

Sec. 9. NEW SECTION. TERMS AND CONDITIONS OF RENTAL AGREEMENT.

1. The landlord and tenant may include in a rental agreement, terms and conditions not prohibited by this Act or other rule of law including rent, term of the agreement, and other provisions governing the rights and obligations of the parties.

2. In absence of agreement, the tenant shall pay as rent the fair rental value for the use and occupancy of the dwelling unit.

3. Rent shall be payable without demand or notice at the time and place agreed upon by the parties. Unless otherwise agreed, rent is payable at the dwelling unit and periodic rent is payable at the beginning of any term of one month or less and otherwise in equal monthly installments at the

beginning of each month. Unless otherwise agreed, rent shall be uniformly apportionable from day-to-day.

4. Unless the rental agreement fixes a definite term, the tenancy shall be week-to-week in case of a roomer who pays weekly rent, and in all other cases month-to-month.

Sec. 10. NEW SECTION. EFFECT OF UNSIGNED OR UNDELIVERED RENTAL AGREEMENT.

1. If a landlord does not sign and deliver a written rental agreement signed and delivered to the landlord by the tenant, acceptance of rent without reservation by the landlord gives the rental agreement the same effect as if it had been signed and delivered by the landlord.

2. If a tenant does not sign and deliver a written rental agreement signed and delivered to the tenant by the landlord, acceptance of possession without reservation gives the rental agreement the same effect as if it had been signed and delivered by the tenant.

3. If a rental agreement given effect by the operation of this section provides for a term longer than one year, it is effective only for one year.

Sec. 11. NEW SECTION. PROHIBITED PROVISIONS IN RENTAL AGREEMENTS.

1. A rental agreement shall not provide that the tenant or landlord:

a. Agrees to waive or to forego rights or remedies under this Act provided that this restriction shall not apply to rental agreements covering single family residences on land assessed as agricultural land and located in an unincorporated area;

b. Authorizes a person to confess judgment on a claim arising out of the rental agreement;

c. Agrees to pay the other party's attorney fees; or

d. Agrees to the exculpation or limitation of any liability of the other party arising under law or to indemnify the other party for that liability or the costs connected therewith.

2. A provision prohibited by subsection one (1) of this section included in a rental agreement is unenforceable.

If a landlord willfully uses a rental agreement containing provisions known by the landlord to be prohibited, a tenant may recover actual damages sustained by the tenant and not more than three months' periodic rent and reasonable attorney's fees.

ARTICLE II
LANDLORD OBLIGATIONS

Sec. 12. NEW SECTION. RENTAL DEPOSITS.

1. A landlord shall not demand or receive as rental deposit and prepaid rent an amount or value in excess of two months' rent.

2. All rental deposits shall be held by the landlord for the tenant, who is a party to the agreement, in a bank or savings and loan association or credit union which is insured by an agency of the federal government. Rental deposits shall not be commingled with the personal funds of the landlord. Notwithstanding the provisions of chapter one hundred seventeen (117) of the Code, all rental deposits may be held in a trust account, which may be a common trust account and which may be an interest bearing account. Any interest earned on a rental deposit during the first five years of a tenancy shall be the property of the landlord.

3. A landlord shall, within thirty days from the date of termination of the tenancy and receipt of the tenant's mailing address or delivery instructions, return the rental deposit to the tenant or furnish to the tenant a written statement showing the specific reason for withholding of the rental deposit or any portion thereof. If the rental deposit or any portion of the rental deposit is withheld for the restoration of the dwelling unit, the statement shall specify the nature of the damages. The landlord may withhold from the rental deposit only such amounts as are reasonably necessary for the following reasons:

a. To remedy a tenant's default in the payment of rent or of other funds due to the landlord pursuant to the rental agreement.

b. To restore the dwelling unit to its condition at the commencement of the tenancy, ordinary wear and tear excepted.

c. To recover expenses incurred in acquiring possession of the premises from a tenant who does not act in good faith in failing to surrender and vacate the premises upon noncompliance with the rental agreement and notification of such noncompliance pursuant to this Act.

In an action concerning the rental deposit, the burden of proving, by a preponderance of the evidence, the reason for withholding all or any portion of the rental deposit shall be on the landlord.

4. A landlord who fails to provide a written statement within thirty days of termination of the tenancy and receipt

of the tenant's mailing address or delivery instructions shall forfeit all rights to withhold any portion of the rental deposit. If no mailing address or instructions are provided to the landlord within one year from the termination of the tenancy the rental deposit shall revert to the landlord and the tenant will be deemed to have forfeited all rights to the rental deposit.

5. Upon termination of a landlord's interest in the dwelling unit, the landlord or an agent of the landlord shall, within a reasonable time, transfer the rental deposit, or any remainder after any lawful deductions to the landlord's successor in interest and notify the tenant of the transfer and of the transferee's name and address or return the deposit, or any remainder after any lawful deductions to the tenant.

Upon the termination of the landlord's interest in the dwelling unit and compliance with the provisions of this subsection, the landlord shall be relieved of any further liability with respect to the rental deposit.

6. Upon termination of the landlord's interest in the dwelling unit, the landlord's successor in interest shall have all the rights and obligations of the landlord with respect to the rental deposits, except that if the tenant does not object to the stated amount within twenty days after written notice to the tenant of the amount of rental deposit being transferred or assumed, the obligations of the landlord's successor to return the deposit shall be limited to the amount contained in the notice. The notice shall contain a stamped envelope addressed to landlord's successor and may be given by mail or by personal service.

7. The bad faith retention of a deposit by a landlord, or any portion of the rental deposit, in violation of this section shall subject the landlord to punitive damages not to exceed two hundred dollars in addition to actual damages.

8. The court may, in any action on a rental agreement, award reasonable attorney fees to the prevailing party.

Sec. 13. NEW SECTION. DISCLOSURE.

1. The landlord or a person authorized to enter into a rental agreement on behalf of the landlord shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of:

- a. The person authorized to manage the premises.
- b. An owner of the premises or a person authorized to act for and on behalf of the owner for the purpose of service of process and for the purpose of receiving and receipting

for notices and demands.

2. The information required to be furnished by this section shall be kept current and this section extends to and is enforceable against a successor landlord, owner, or manager.

3. A person who fails to comply with subsection one (1) of this section becomes an agent of each person who is a landlord for the purpose of:

a. Service of process and receiving and receipting for notices and demands.

b. Performing the obligations of the landlord under this Act and under the rental agreement and expending or making available for that purpose all rent collected from the premises.

4. The landlord or any person authorized to enter into a rental agreement on the landlord's behalf shall fully explain utility rates, charges and services to the prospective tenant before the rental agreement is signed unless paid by the tenant directly to the utility company.

5. Each tenant shall be notified, in writing, of any rent increase at least thirty days before the effective date. Such effective date shall not be sooner than the expiration date of the original rental agreement or any renewal or extension thereof.

Sec. 14. NEW SECTION. LANDLORD TO SUPPLY POSSESSION OF DWELLING UNIT. At the commencement of the term, the landlord shall deliver possession of the premises to the tenant in compliance with the rental agreement and section fifteen (15) of this Act. The landlord may bring an action for possession against a person wrongfully in possession and may recover the damages provided in section thirty-four (34), subsection three (3) of this Act.

Sec. 15. NEW SECTION. LANDLORD TO MAINTAIN FIT PREMISES.

1. The landlord shall:

a. Comply with the requirements of applicable building and housing codes materially affecting health and safety.

b. Make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition.

c. Keep all common areas of the premises in a clean and safe condition. The landlord shall not be liable for any injury caused by any objects or materials which belong to or which have been placed by a tenant in the common areas of the premises used by the tenant.

d. Maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating,

air-conditioning, and other facilities and appliances, including elevators, supplied or required to be supplied by the landlord.

e. Provide and maintain appropriate receptacles and conveniences, accessible to all tenants, for the central collection and removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of the dwelling unit and arrange for their removal.

f. Supply running water and reasonable amounts of hot water at all times and reasonable heat, except where the building that includes the dwelling unit is not required by law to be equipped for that purpose, or the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct public utility connection.

If the duty imposed by paragraph a of this subsection is greater than a duty imposed by another paragraph of this subsection, the landlord's duty shall be determined by reference to paragraph a of this subsection.

2. The landlord and tenant of a single family residence may agree in writing that the tenant perform the landlord's duties specified in paragraphs e and f of subsection one (1) and also specified repairs, maintenance tasks, alterations, and remodeling, but only if the transaction is entered into in good faith.

3. The landlord and tenant of a dwelling unit other than a single family residence may agree that the tenant is to perform specified repairs, maintenance tasks, alterations, or remodeling only:

a. If the agreement of the parties is entered into in good faith and is set forth in a separate writing signed by the parties and supported by adequate consideration;

b. If the agreement does not diminish or affect the obligation of the landlord to other tenants in the premises.

4. The landlord shall not treat performance of the separate agreement described in subsection three (3) of this section as a condition to an obligation or performance of a rental agreement.

Sec. 16. NEW SECTION. LIMITATION OF LIABILITY.

1. Unless otherwise agreed, a landlord, who conveys premises that include a dwelling unit subject to a rental agreement in a good faith sale to a bona fide purchaser, is relieved of liability under the rental agreement and this Act as to events occurring subsequent to written notice to the tenant

of the conveyance.

2. A manager of premises that includes a dwelling unit is relieved of liability under the rental agreement and this Act as to events occurring after written notice to the tenant of the termination of his or her management.

ARTICLE III

TENANT OBLIGATIONS

Sec. 17. NEW SECTION. TENANT TO MAINTAIN DWELLING UNIT.

The tenant shall:

1. Comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety.

2. Keep that part of the premises that the tenant occupies and uses as clean and safe as the condition of the premises permit.

3. Dispose from the tenant's dwelling unit all ashes, rubbish, garbage, and other waste in a clean and safe manner.

4. Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits.

5. Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances including elevators in the premises.

6. Not deliberately or negligently destroy, deface, damage, impair or remove a part of the premises or knowingly permit a person to do so.

7. Conduct himself or herself in a manner that will not disturb a neighbor's peaceful enjoyment of the premises.

Sec. 18. NEW SECTION. RULES. A landlord, from time to time, may adopt rules, however described, concerning the tenant's use and occupancy of the premises. A rule is enforceable against the tenant only if it is written and if:

1. Its purpose is to promote the convenience, safety, or welfare of the tenants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally.

2. It is reasonably related to the purpose for which it is adopted.

3. It applies to all tenants in the premises in a fair manner.

4. It is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform the tenant of what the tenant must or must not do to comply.

5. It is not for the purpose of evading the obligations of the landlord.

6. The tenant has notice of it at the time the tenant enters into the rental agreement.

A rule adopted after the tenant enters into the rental agreement is enforceable against the tenant if reasonable notice of its adoption is given to the tenant and it does not work a substantial modification of the rental agreement.

Sec. 19. NEW SECTION. ACCESS.

1. The tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations, or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors.

2. The landlord may enter the dwelling unit without consent of the tenant in case of emergency.

3. The landlord shall not abuse the right of access or use it to harass the tenant. Except in case of emergency or if it is impracticable to do so, the landlord shall give the tenant at least twenty-four hours notice of the landlord's intent to enter and enter only at reasonable times.

4. The landlord does not have another right of access except by court order, and as permitted by sections twenty-eight (28) and twenty-nine (29) of this Act, or if the tenant has abandoned or surrendered the premises.

Sec. 20. NEW SECTION. TENANT TO USE AND OCCUPY. Unless otherwise agreed, the tenant shall occupy his or her dwelling unit only as a dwelling unit and uses incidental thereto. The rental agreement may require that the tenant notify the landlord of an anticipated extended absence from the premises not later than the first day of the extended absence.

ARTICLE IV

REMEDIES

Part I

TENANT REMEDIES

Sec. 21. NEW SECTION. NONCOMPLIANCE BY THE LANDLORD--
IN GENERAL.

1. Except as provided in this Act, if there is a material noncompliance by the landlord with the rental agreement or a noncompliance with section fifteen (15) of this Act materially affecting health and safety, the tenant may elect to commence an action under this section and shall deliver a written notice to the landlord specifying the acts and omissions constituting the breach and that the rental agreement

will terminate upon a date not less than thirty days after receipt of the notice if the breach is not remedied in fourteen days, and the rental agreement shall terminate and the tenant shall surrender as provided in the notice subject to the following:

a. If the breach is remediable by repairs or the payment of damages or otherwise, and if the landlord adequately remedies the breach prior to the date specified in the notice, the rental agreement shall not terminate.

b. If substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six months, the tenant may terminate the rental agreement upon at least fourteen days' written notice specifying the breach and the date of termination of the rental agreement unless the landlord has exercised due diligence and effort to remedy the breach which gave rise to the noncompliance.

c. The tenant may not terminate for a condition caused by the deliberate or negligent act or omission of the tenant, a member of the tenant's family, or other person on the premises with the tenant's consent.

2. Except as provided in this Act, the tenant may recover damages and obtain injunctive relief for any noncompliance by the landlord with the rental agreement or section fifteen (15) of this Act unless the landlord demonstrates affirmatively that the landlord has exercised due diligence and effort to remedy any noncompliance, and that any failure by the landlord to remedy any noncompliance was due to circumstances reasonably beyond the control of the landlord. If the landlord's noncompliance is willful the tenant may recover reasonable attorney's fees.

3. The remedy provided in subsection two (2) of this section is in addition to any right of the tenant arising under subsection one (1) of this section.

4. If the rental agreement is terminated, the landlord shall return all prepaid rent and security recoverable by the tenant under section twelve (12) of this Act.

Sec. 22. NEW SECTION. FAILURE TO DELIVER POSSESSION.

1. If the landlord fails to deliver possession of the dwelling unit to the tenant as provided in section fourteen (14) of this Act, rent abates until possession is delivered and the tenant shall:

a. Upon at least five days' written notice to the landlord, terminate the rental agreement and upon termination the land-

lord shall return all prepaid rent and security; or

b. Demand performance of the rental agreement by the landlord and, if the tenant elects, maintain an action for possession of the dwelling unit against the landlord or a person wrongfully in possession and recover the damages sustained by the tenant.

2. If a landlord's failure to deliver possession is willful and not in good faith, a tenant may recover from the landlord the actual damages sustained by the tenant and reasonable attorney's fees.

Sec. 23. NEW SECTION. WRONGFUL FAILURE TO SUPPLY HEAT, WATER, HOT WATER OR ESSENTIAL SERVICES.

1. If contrary to the rental agreement or section fifteen (15) of this Act the landlord deliberately or negligently fails to supply running water, hot water, or heat, or essential services, the tenant may give written notice to the landlord specifying the breach and may:

a. Procure reasonable amounts of hot water, running water, heat and essential services during the period of the landlord's noncompliance and deduct their actual and reasonable cost from the rent;

b. Recover damages based upon the diminution in the fair rental value of the dwelling unit; or

c. Recover any rent already paid for the period of the landlord's noncompliance which shall be reimbursed on a pro rata basis.

2. If the tenant proceeds under this section, the tenant may not proceed under section twenty-one (21) of this Act as to that breach.

3. The rights under this section do not arise until the tenant has given notice to the landlord or if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of his family, or other person on the premises with the consent of the tenant.

Sec. 24. NEW SECTION. LANDLORD'S NONCOMPLIANCE AS DEFENSE TO ACTION FOR POSSESSION OR RENT.

1. In an action for possession based upon nonpayment of the rent or in an action for rent where the tenant is in possession, the tenant may counterclaim for an amount which the tenant may recover under the rental agreement or this Act. In that event the court from time to time may order the tenant to pay into court all or part of the rent accrued and thereafter accruing, and shall determine the amount due to each party. The party to whom a net amount is owed shall

be paid first from the money paid into court, and the balance by the other party. If rent does not remain due after application of this section, judgment shall be entered for the tenant in the action for possession. If the defense or counterclaim by the tenant is without merit and is not raised in good faith the landlord may recover reasonable attorney's fees.

2. In an action for rent where the tenant is not in possession, the tenant may counterclaim as provided in subsection one (1) of this section, but the tenant is not required to pay any rent into court.

Sec. 25. NEW SECTION. FIRE OR CASUALTY DAMAGE.

1. If the dwelling unit or premises are damaged or destroyed by fire or casualty to an extent that enjoyment of the dwelling unit is substantially impaired, the tenant may:

a. Immediately vacate the premises and notify the landlord in writing within fourteen days of the tenant's intention to terminate the rental agreement, in which case the rental agreement terminates as of the date of vacating; or

b. If continued occupancy is lawful, vacate a part of the dwelling unit rendered unusable by the fire or casualty, in which case the tenant's liability for rent is reduced in proportion to the diminution in the fair rental value of the dwelling unit.

2. If the rental agreement is terminated, the landlord shall return all prepaid rent and security recoverable under section twelve (12) of this Act. Accounting for rent in the event of termination or apportionment is to occur as of the date of the casualty.

Sec. 26. NEW SECTION. TENANT'S REMEDIES FOR LANDLORD'S UNLAWFUL OUSTER, EXCLUSION, OR DIMINUTION OF SERVICE. If the landlord unlawfully removes or excludes the tenant from the premises or willfully diminishes services to the tenant by interrupting or causing the interruption of electric, gas, water or other essential service to the tenant, the tenant may recover possession or terminate the rental agreement and, in either case, recover the actual damages sustained by the tenant and reasonable attorney's fees. If the rental agreement is terminated, the landlord shall return all prepaid rent and security.

Part II

LANDLORD REMEDIES

Sec. 27. NEW SECTION. NONCOMPLIANCE WITH RENTAL AGREEMENT--FAILURE TO PAY RENT.

1. Except as provided in this Act, if there is a material noncompliance by the tenant with the rental agreement or a noncompliance with section seventeen (17) of this Act materially affecting health and safety, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty days after receipt of the notice if the breach is not remedied in fourteen days, and the rental agreement shall terminate as provided in the notice subject to the provisions of this section. If the breach is remediable by repairs or the payment of damages or otherwise and the tenant adequately remedies the breach prior to the date specified in the notice, the rental agreement shall not terminate. If substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six months, the landlord may terminate the rental agreement upon at least fourteen days' written notice specifying the breach and the date of termination of the rental agreement.

2. If rent is unpaid when due and the tenant fails to pay rent within three days after written notice by the landlord of nonpayment and the landlord's intention to terminate the rental agreement if the rent is not paid within that period of time, the landlord may terminate the rental agreement.

3. Except as provided in this Act, the landlord may recover damages and obtain injunctive relief for noncompliance by the tenant with the rental agreement or section seventeen (17) of this Act unless the tenant demonstrates affirmatively that the tenant has exercised due diligence and effort to remedy any noncompliance, and that the tenant's failure to remedy any noncompliance was due to circumstances beyond the tenant's control. If the tenant's noncompliance is willful, the landlord may recover reasonable attorney's fees.

4. In any action by a landlord for possession based upon nonpayment of rent, proof by the tenant of the following shall be a defense to any action or claim for possession by the landlord, and the amounts expended by the claimant in correcting the deficiencies shall be deducted from the amount claimed by the landlord as unpaid rent:

a. That the landlord failed to comply either with the

rental agreement or with section fifteen (15) of this Act;
and

b. That the tenant notified the landlord at least fourteen days prior to the due date of the tenant's rent payment of the tenant's intention to correct the condition constituting the breach referred to in paragraph a of this subsection at the landlord's expense; and

c. That the reasonable cost of correcting the condition constituting the breach is equal to or less than one month's periodic rent; and

d. That the tenant in good faith caused the condition constituting the breach to be corrected prior to receipt of written notice of the landlord's intention to terminate the rental agreement for nonpayment of rent.

Sec. 28. NEW SECTION. FAILURE TO MAINTAIN. If there is noncompliance by the tenant with section seventeen (17) of this Act, materially affecting health and safety that can be remedied by repair or replacement of a damaged item or cleaning, and the tenant fails to comply as promptly as conditions require in case of emergency or within fourteen days after written notice by the landlord specifying the breach and requesting that the tenant remedy it within that period of time, the landlord may enter the dwelling unit and cause the work to be done in a workmanlike manner and submit an itemized bill for the actual and reasonable cost or the fair and reasonable value of it as rent on the next date when periodic rent is due, or if the rental agreement has terminated, for immediate payment.

Sec. 29. NEW SECTION. REMEDIES FOR ABSENCE, NONUSE AND ABANDONMENT.

1. If the rental agreement requires the tenant to give notice to the landlord of an anticipated extended absence as provided in section twenty (20) of this Act, and the tenant willfully fails to do so, the landlord may recover actual damages from the tenant.

2. During an absence of the tenant in excess of fourteen days, the landlord may enter the dwelling unit at times reasonably necessary.

3. If the tenant abandons the dwelling unit, the landlord shall make reasonable efforts to rent it at a fair rental. If the landlord rents the dwelling unit for a term beginning prior to the expiration of the rental agreement, it is deemed to be terminated as of the date the new tenancy begins. The rental agreement is deemed to be terminated by

the landlord as of the date the landlord has notice of the abandonment, if the landlord fails to use reasonable efforts to rent the dwelling unit at a fair rental or if the landlord accepts the abandonment as a surrender. If the tenancy is from month-to-month, or week-to-week, the term of the rental agreement for this purpose shall be deemed to be a month or a week, as the case may be.

Sec. 30. NEW SECTION. WAIVER OF LANDLORD'S RIGHT TO TERMINATE. Acceptance of performance by the tenant that varies from the terms of the rental agreement or rules subsequently adopted by the landlord constitutes a waiver of the landlord's right to terminate the rental agreement for that breach, unless otherwise agreed after the breach has occurred.

Sec. 31. NEW SECTION. LANDLORD LIENS--DISTRESS FOR RENT.

1. A lien on behalf of the landlord on the tenant's household goods is not enforceable unless perfected before the effective date of this Act.

2. Distraint for rent is abolished.

Sec. 32. NEW SECTION. REMEDY AFTER TERMINATION. If the rental agreement is terminated, the landlord may have a claim for possession and for rent and a separate claim for actual damages for breach of the rental agreement and reasonable attorney's fees as provided in section twenty-seven (27) of this Act.

Sec. 33. NEW SECTION. RECOVERY OF POSSESSION LIMITED. A landlord may not recover or take possession of the dwelling unit by action or otherwise, including willful diminution of services to the tenant by interrupting or causing the interruption of electric, gas, water or other essential service to the tenant, except in case of abandonment, surrender, or as permitted in this Act.

Part III

PERIODIC TENANCY: HOLDOVER: ABUSE OF ACCESS

Sec. 34. NEW SECTION. PERIODIC TENANCY; HOLDOVER REMEDIES.

1. The landlord or the tenant may terminate a week-to-week tenancy by a written notice given to the other at least ten days prior to the termination date specified in the notice.

2. The landlord or the tenant may terminate a month-to-month tenancy by a written notice given to the other at least thirty days prior to the periodic rental date specified in the notice.

3. If the tenant remains in possession without the landlord's consent after expiration of the term of the rental

agreement or its termination, the landlord may bring an action for possession and if the tenant's holdover is willful and not in good faith the landlord, in addition, may recover the actual damages sustained by the landlord and reasonable attorney's fees. If the landlord consents to the tenant's continued occupancy, subsection four (4) of section nine (9) of this Act applies.

Sec. 35. NEW SECTION. LANDLORD AND TENANT REMEDIES FOR ABUSE OF ACCESS.

1. If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access, or terminate the rental agreement. In either case, the landlord may recover actual damages and reasonable attorney's fee.

2. If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or makes repeated demands for entry otherwise lawful but which have the effect of unreasonably harassing the tenant, the tenant may obtain injunctive relief to prevent the recurrence of the conduct, or terminate the rental agreement. In either case, the tenant may recover actual damages not less than an amount equal to one month's rent and reasonable attorney's fees.

ARTICLE V

RETALIATORY ACTION

Sec. 36. NEW SECTION. RETALIATORY CONDUCT PROHIBITED.

1. Except as provided in this section, a landlord may not retaliate by increasing rent or decreasing services or by bringing or threatening to bring an action for possession after:

a. The tenant has complained to a governmental agency charged with responsibility for enforcement of a building or housing code of a violation applicable to the premises materially affecting health and safety;

b. The tenant has complained to the landlord of a violation under section fifteen (15) of this Act; or

c. The tenant has organized or become a member of a tenants' union or similar organization.

2. If the landlord acts in violation of subsection one (1) of this section, the tenant may recover from the landlord the actual damages sustained by the tenant and reasonable attorney's fees, and has a defense in action against the landlord for possession. In an action by or against the tenant, evidence of a good faith complaint within one year prior to the alleged act of retaliation creates a presumption that the landlord's conduct was in retaliation. The

presumption does not arise if the tenant made the complaint after notice of a proposed rent increase or diminution of services. Evidence by the landlord that legitimate costs and charges of owning, maintaining or operating a dwelling unit have increased shall be a defense against the presumption of retaliation when a rent increase is commensurate with the increase in costs and charges. "Presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

3. Notwithstanding subsections one (1) and two (2) of this section, a landlord may bring an action for possession if:

a. The violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant or other person in the tenant's household or upon the premises with his consent;

b. The tenant is in default in rent; or

c. Compliance with the applicable building or housing code requires alteration, remodeling, or demolition which would effectively deprive the tenant of use of the dwelling unit. The maintenance of the action does not release the landlord from liability under subsection two (2) of section twenty-one (21) of this Act.

ARTICLE VI

EFFECTIVE DATE AND REPEALER

Sec. 37. This Act shall apply to rental agreements entered into or extended or renewed after the effective date of this Act.

Sec. 38. Sections five hundred sixty-two point eight (562.8) through five hundred sixty-two point sixteen (562.16), Code 1977, are repealed.

Sec. 39. Transactions entered into before the effective date of this Act, and not extended or renewed after that date, and the rights, duties, and interests flowing from them remain valid and may be terminated, completed, consummated, or enforced as required or permitted by any statute or other law amended or repealed by this Act as though the repeal or amendment had not occurred.

Sec. 40. If a provision of this Act or the application of it to a person or circumstances is held invalid, the invalidity does not affect other provisions or application of this Act which can be given effect without the invalid provision or application, and to this end the provisions of

this Act are severable.

Sec. 41. This Act is effective January 1, 1979.

Approved June 27, 1978

CHAPTER 1173

MOBILE HOME PARKS RESIDENTIAL LANDLORD AND TENANT LAW

H. F. 2135

AN ACT to establish a mobile home parks residential landlord and tenant Act and providing civil penalties.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I

GENERAL PROVISIONS

Section 1. NEW SECTION. SHORT TITLE. This chapter shall be known and may be cited as the mobile home parks residential landlord and tenant Act.

Sec. 2. NEW SECTION. PURPOSES. Underlying purposes and policies of this chapter are:

1. To simplify, clarify and establish the law governing the rental of mobile home spaces and rights and obligations of landlord and tenant.
2. To encourage landlord and tenant to maintain and improve the quality of mobile home living.

Sec. 3. NEW SECTION. SUPPLEMENTARY PRINCIPLES OF LAW APPLICABLE. Unless displaced by the provisions of this Act, the principles of law and equity, including the law relating to capacity to contract, mutuality of obligations, principal and agent, real property, public health, safety and fire prevention, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy or other validating or invalidating cause supplement its provisions.

Sec. 4. NEW SECTION. ADMINISTRATION OF REMEDIES; ENFORCEMENT.

1. The remedies provided by this Act shall be so administered that the aggrieved party may recover appropriate damages. The aggrieved party has a duty to mitigate damages.

2. Any right or obligation declared by this Act is enforceable by action unless the provision declaring it specifies a different and limited effect.